

AMENDED IN ASSEMBLY APRIL 3, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1001

Introduced by Assembly Member Gordon

February 22, 2013

~~An act to amend Section 14515.5 of the Public Resources Code, relating to beverage containers. An act to amend Sections 14505, 14515.5, 14538, 14549.5, 14550, 14553, 14560, 14560.5, 14571.2, 14571.5, 14571.8, 14573, 14574, 14575, 14581, and 14583, of, to amend, repeal, and add Section 14585 of, to add Sections 14526.8, 14528.2, 14528.3, 14571.6.5, and 14580.5 to, and to add Division 12.5 (commencing with Section 17000) to, the Public Resources Code, relating to recycling, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1001, as amended, Gordon. ~~Beverage containers: plastic. Recycling: voluntary beverage containers.~~

(1) Existing law, the California Beverage Container Recycling and Litter Reduction Act, requires a distributor to pay a redemption payment for every beverage container sold or offered for sale in the state to the Department of Resources Recycling and Recovery. The department is required to deposit those amounts in the California Beverage Container Recycling Fund. The act defines the term beverage as including specified types of beverages that are sold in aluminum beverage containers, glass beverage containers, plastic beverage containers, or bimetal containers.

This bill would define the term "regulated beverage" as a beverage that meets the definition of beverage under the act, but is sold in a beverage container that is not one of those containers. The bill would also include, as a regulated beverage, 100% fruit juice in a container

that is 46 ounces or more in volume and vegetable juice in a container that is more than 16 ounces in volume.

The bill would require a distributor of regulated beverage containers to submit a plan, by January 1, 2014, to the department for the implementation of a takeback and recycling system incorporating specified elements, to implement the plan, and to annually demonstrate to the department that not less than 80% of the regulated beverages sold by the distributor in this state are recycled and that the regulated beverage containers sold by the distributor are made from material containing not less than 35% postconsumer recycled content. The bill would authorize the department to require a distributor to pay an annual administrative fee that would be required to be set at an amount that is adequate to cover the department's full costs of administering and enforcing this program. The bill would require the department to deposit the fees into the Regulated Beverage Account, which the bill would establish in the State Treasury. The bill would authorize the department to expend the moneys in the Regulated Beverage Account, upon appropriation by the Legislature, to cover the department's costs to implement the program.

The bill would allow a distributor, in lieu of submitting and implementing a takeback and recycling system, to elect to pay a redemption payment to the department pursuant to the act and to otherwise comply with the act. The bill would require the department to deposit the redemption payments by distributors for voluntary beverage containers into the Voluntary Beverage Container Fund, which the bill would create in the State Treasury. The bill would continuously appropriate the money in the Voluntary Beverage Container Fund to the department for the payment of refund values and administrative fees to processors for voluntary beverage containers, and as a reserve for contingencies, thereby making an appropriation. The bill would also provide that the money in the Voluntary Beverage Container Fund may be expended by the department for the administration of the act only upon appropriation by the Legislature.

The bill would require the department to establish a separate processing fee account in the Voluntary Beverage Container Fund for voluntary beverage containers and would require all amounts paid as processing fees for those voluntary beverage containers be deposited in that account. The bill would continuously appropriate those funds to the department for purposes of making processing payments for voluntary beverage containers. The bill would require the department,

once every 3 months, to set aside funds estimated to be needed for the expenditures specified above. The bill would continuously appropriate the remainder of those funds to the department to pay handling fees for voluntary beverage containers and to make payments for the collection of voluntary beverage containers by curbside programs and neighborhood dropoff programs. The bill would make other conforming changes to the act with regard to voluntary beverage containers.

(2) The act requires the department to certify recycling centers and requires, as a condition of certification, that if one or more certified entities have operated at the same location within the past 5 years, the operations at the location of the recycling center exhibit, to the satisfaction of the department, a pattern of operation in compliance with the requirements of the act.

This bill would authorize the department to waive this requirement if it makes a specified determination.

(3) Existing law requires the department to annually review and recalculate commingled rates paid for beverage containers and postfilled containers paid to curbside recycling programs, collection programs, and recycling centers.

This bill would prohibit the department from recalculating commingled rates for the 2014, 2015, and 2016 calendar years paid to recycling centers and would prohibit recycling centers from paying any refund value at a commingled rate.

(4) Existing law specifies requirements for the reports, claims, and information required to be submitted to the department pursuant to the act.

This bill would require the department to make available a process for electronically submitting these reports, claims, and other information and would require those reports, claims, and other information to be submitted electronically to the department pursuant to that process. The bill would make conforming changes with regard to the electronic submission of reports and payments to the department.

(5) Existing law specifies procedures for the reduction of the processing fee for PET containers, as defined. Existing law also requires all rigid plastic bottles and rigid plastic containers to be labeled with a code that indicates the resin used to produce the rigid plastic bottle or rigid plastic container.

This bill would revise the definition of the term “PET container” for purposes of the act to include a plastic beverage container labeled with the term PETE.

(6) *The act defines “convenience zone” for the purposes of the act and requires that every convenience zone be served by at least one certified recycling center, with specified operating hours. Existing law authorizes the department to designate a convenience zone in an area where there is no supermarket and to grant an exemption from the convenience zone requirements of the act.*

This bill would define the term “unserved convenience zone” and would require the department to provide assistance and incentives to reduce the number of unserved convenience zones to less than 5% of total convenience zones by January 1, 2015.

This bill would permit the department to authorize an operator of a certified recycling center to be open for business less than 30 hours per week, but not less than 20 hours per week, if the recycling center is located in an unserved convenience zone, as defined, that has been unserved for at least 6 continuous months.

This bill would prohibit the director from granting an exemption if a certified recycling center will not be operating in a convenience zone in which is located a supermarket and would repeal the authority to designate a convenience zone in an area where there is no supermarket.

(7) *Existing law prohibits a lease entered into by a dealer to contain a leasehold restriction that prohibits or results in the prohibition of the establishment of a recycling location. Existing law prohibits the department from making any payments, grants, or loans, to a city or county that has adopted or is enforcing a land use restriction that prevents the siting or operation of a certified recycling center at a supermarket site*

This bill would prohibit a person from entering into a lease with a supermarket on or after January 1, 2014, that prohibits the operation of a certified recycling center or inhibits the ability of that supermarket to operate as, or contract with, a certified recycling center. This bill would also prohibit a city or county that receives any revenue pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law from a transaction conducted by a supermarket from prohibiting the siting of a certified recycling center in the parking lot of a supermarket.

(8) *After setting aside funds for the payment of refund values and administrative fees, and for a reserve for contingencies, the act provides that the remaining moneys in the fund are continuously appropriated to the department for expenditure for designated programs, grants, and fee payments, including annually expending \$15,000,000 for grants for*

beverage container programs to certain community conservation corps and \$1,500,000 for grants for beverage container programs.

This bill would increase the amount the department is authorized to spend for grants for beverage container programs to certain community conservation corps to \$21,000,000 and would delete the authorization to expend that \$1,500,000 for those other grants, thereby making an appropriation.

(9) The act continuously appropriates to the department the amount necessary to pay handling fees to provide an incentive for the redemption of empty beverage containers in convenience zones. Existing law specifies procedures for determining the number of containers for which a handling fee may be paid and requires the department to set the amount of the handling fee using a specified method, but requires the per-container handling fee to be set until March 1, 2013, at an amount that is not less than the amount of the per-container handling fee that was in effect on July 1, 2011.

This bill would make inoperative the existing provisions regarding the methods for setting and calculating handling fees on July 1, 2014, and would repeal those provisions on January 1, 2015. The bill would provide that for beverage containers returned for recycling on and after July 1, 2014, the handling fee would equal specified amounts, based on the amount of beverage containers a recycling site handles each month. The bill would make an appropriation by changing the terms and conditions under which the department is authorized to make payments from a continuously appropriated fund.

(10) Since a violation of the act is a crime, the bill would impose a state-mandated local program by creating new crimes with regard to the submission of information to the department.

(11) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~The California Beverage Container Recycling and Litter Reduction Act requires the Department of Resources Recycling and Recovery to calculate a processing fee and a processing payment for each beverage container with a specified scrap value, to be paid by beverage manufacturers for each beverage container sold or transferred to a distributor or dealer. Existing law specifies procedures for the reduction~~

of the processing fee for PET containers, as defined. Existing law also requires all rigid plastic bottles and rigid plastic containers to be labeled with a code which indicates the resin used to produce the rigid plastic bottle or rigid plastic container.

This bill would revise the definition of the term “PET container” for purposes of the act to include a plastic beverage container labeled with the term “PETE.”

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 14505 of the Public Resources Code is*
2 *amended to read:*

3 14505. (a) “Beverage container” means ~~the both of the~~
4 *following:*

5 (1) *The individual, separate bottle, can, jar, carton, or other*
6 *receptacle, however denominated, in which a beverage is sold, and*
7 *which that is constructed of metal, glass, or plastic, or other*
8 *material, or any combination of these materials. “Beverage*
9 *container” does not include cups or other similar open or loosely*
10 *sealed receptacles.*

11 (2) *Except as specified otherwise in this division, a voluntary*
12 *beverage container.*

13 (b) *“Beverage container” does not include cups or other similar*
14 *open or loosely sealed receptacles.*

15 *SEC. 2. Section 14515.5 of the Public Resources Code is*
16 *amended to read:*

17 14515.5. “PET container” means a plastic beverage container
18 labeled with a “1” or with “PETE” for polyethylene terephthalate
19 resin, pursuant to Section 18015 and subject to this division.

20 *SEC. 3. Section 14526.8 is added to the Public Resources Code,*
21 *to read:*

22 14526.8. “Unserved convenience zone” means a convenience
23 zone in which there is not in operation a certified recycling center
24 or other location that meets the requirements of subdivision (a) of
25 Section 14571 and the convenience zone is otherwise not exempt
26 pursuant to Section 14571.8.

27 *SEC. 4. Section 14528.2 is added to the Public Resources Code,*
28 *to read:*

1 14528.2. “Voluntary beverage container” is a regulated
2 beverage container subject to Division 12.5 (commencing with
3 Section 17000) for which the distributor voluntarily agrees to
4 participate in this division pursuant to Section 17004.

5 SEC. 5. Section 14528.3 is added to the Public Resources Code,
6 to read:

7 14528.3. “Voluntary fund” means the Voluntary Beverage
8 Container Fund established pursuant to Section 14580.5.

9 SEC. 6. Section 14538 of the Public Resources Code is
10 amended to read:

11 14538. (a) The department shall certify the operators of
12 recycling centers pursuant to this section. The director shall adopt,
13 by regulation, a procedure for the certification of recycling centers,
14 including standards and requirements for certification. These
15 regulations shall require that all information be submitted to the
16 department under penalty of perjury. A recycling center shall meet
17 all of the standards and requirements contained in the regulations
18 for certification. The regulations shall require, but shall not be
19 limited to requiring, that all of the following conditions be met for
20 certification:

21 (1) The operator of the recycling center demonstrates, to the
22 satisfaction of the department, that the operator will operate in
23 accordance with this division.

24 (2) (A) If one or more certified entities have operated at the
25 same location within the past five years, the operations at the
26 location of the recycling center exhibit, to the satisfaction of the
27 department, a pattern of operation in compliance with the
28 requirements of this division and regulations adopted pursuant to
29 this division.

30 (B) The department shall waive the requirements of
31 subparagraph (A) if the department determines that the new
32 operator applicant has no relationship or affiliation to a previous
33 certified entity that operated at the same location.

34 (3) The operator of the recycling center notifies the department
35 promptly of any material change in the nature of his or her
36 operations which conflicts with information submitted in the
37 operator’s application for certification.

38 (b) A certified recycling center shall comply with all of the
39 following requirements for operation:

1 (1) The operator of the recycling center shall not pay a refund
2 value for, or receive a refund value from any processor for, any
3 food or drink packaging material or any beverage container or
4 other product that does not have a refund value established pursuant
5 to Section 14560.

6 (2) The operator of a recycling center shall take those actions
7 that satisfy the department to prevent the payment of a refund value
8 for any food or drink packaging material or any beverage container
9 or other product that does not have a refund value established
10 pursuant to Section 14560.

11 (3) Unless exempted pursuant to subdivision (b) of Section
12 14572, a certified recycling center shall accept, and pay at least
13 the refund value for, all empty beverage containers, regardless of
14 type.

15 (4) A certified recycling center shall not pay any refund values,
16 processing payments, or administrative fees to a noncertified
17 recycler.

18 (5) A certified recycling center shall not pay any refund values,
19 processing payments, or administrative fees on empty beverage
20 containers or other containers that the certified recycling center
21 knew, or should have known, were coming into the state from out
22 of the state.

23 (6) A certified recycling center shall not claim refund values,
24 processing payments, or administrative fees on empty beverage
25 containers that the certified recycling center knew, or should have
26 known, were received from noncertified recyclers or on beverage
27 containers that the certified recycling center knew, or should have
28 known, come from out of the state.

29 (7) A certified recycling center shall prepare and maintain the
30 following documents involving empty beverage containers, as
31 specified by the department by regulation:

32 (A) Shipping reports that are required to be prepared by the
33 recycling center, or that are required to be obtained from other
34 recycling centers.

35 (B) Consumer transaction receipts.

36 (C) Consumer transaction logs.

37 (D) Rejected container receipts on materials subject to this
38 division.

39 (E) Receipts for transactions with beverage manufacturers on
40 materials subject to this division.

1 (F) Receipts for transactions with beverage distributors on
2 materials subject to this division.

3 (G) Documents authorizing the recycling center to cancel empty
4 beverage containers.

5 (H) Weight tickets.

6 (8) In addition to the requirements of paragraph (7), a certified
7 recycling center shall cooperate with the department and make
8 available its records of scrap transactions when the review of these
9 records is necessary for an audit or investigation by the department.

10 (c) The department may recover, in restitution pursuant to
11 paragraph (5) of subdivision (c) of Section 14591.2, payments
12 made from the fund to the certified recycling center pursuant to
13 Section 14573.5 that are based on the documents specified in
14 paragraph ~~(7)~~; (7) of subdivision (b), that are not prepared or
15 maintained in compliance with the department's regulations, and
16 that do not allow the department to verify claims for program
17 payments.

18 (d) The department may certify a recycling center that will
19 operate less than 30 hours a week, as specified in paragraph (2) of
20 subdivision (b) of Section 14571.

21 *SEC. 7. Section 14549.5 of the Public Resources Code is*
22 *amended to read:*

23 14549.5. ~~On or before the 90th day after the effective date of~~
24 ~~the act amending this section, and annually thereafter, (a) Except~~
25 ~~as provided in subdivision (c), before April 1 of each year, or more~~
26 ~~frequently as determined to be necessary by the department, the~~
27 ~~department shall review and, if necessary in order to ensure~~
28 ~~payment of the most accurate commingled rate feasible, recalculate~~
29 ~~commingled rates paid for beverage containers and postfilled~~
30 ~~containers paid to curbside recycling programs, dropoff or~~
31 ~~collection programs, and recycling centers. Prior to recalculating~~
32 ~~a commingled rate pursuant to this section, the department shall~~
33 ~~do all of the following:~~

34 ~~(a)~~

35 (1) Consult with private and public operators of curbside
36 recycling programs, ~~dropoff or~~ collection programs, and recycling
37 centers concerning the size of the statewide sample, appropriate
38 sampling methodologies, and alternatives to exclusive reliance on
39 a statewide commingled rate.

40 ~~(b)~~

1 (2) At least 60 days prior to the effective date of any new
2 commingled rate, hold a public hearing, after giving notice, to
3 make available to the public and affected parties the department's
4 review and any proposed recalculations of the commingled rate.

5 (e)

6 (3) At least 60 days prior to the effective date of any new
7 commingled rate, and upon the request of any party, make available
8 documentation or studies ~~which~~ *that* were prepared as part of the
9 department's review of a commingled rate.

10 (d)

11 (b) (1) Notwithstanding this division, the department may
12 calculate a curbside recycling program commingled rate pursuant
13 to this subdivision for bimetal containers and a combined
14 commingled rate for all plastic beverage containers displaying the
15 resin identification code "3," "4," "5," "6," or "7" pursuant to
16 Section 18015.

17 (2) The department may enter into a contract for the services
18 required to implement the amendments to this section made by the
19 ~~act Chapter 753 of the first half Statutes of the 2003-04 Regular~~
20 ~~Session of the Legislature amending this section. 2003.~~ The
21 department may not expend more than two hundred fifty thousand
22 dollars (\$250,000) for each year of the contract. The contract shall
23 be paid only from revenues derived from redemption payments
24 and processing fees paid on plastic beverage containers displaying
25 the resin identification code "3," "4," "5," "6," or "7" pursuant to
26 Section 18015. If the department determines that insufficient funds
27 will be available from these revenues, after refund values are paid
28 to processors and the reduction is made in the processing fee
29 pursuant to subdivision ~~(f)~~ (e) of Section 14575 for these
30 containers, the department may determine not to calculate a
31 commingled rate pursuant to this subdivision.

32 (c) *Notwithstanding subdivision (a) or (b), for purposes of the*
33 *2014, 2015, and 2016 calendar years, the department shall not*
34 *recalculate commingled rates paid to recycling centers for*
35 *beverage containers, and recycling centers shall not pay any refund*
36 *value at a commingled rate for beverage containers.*

37 SEC. 8. Section 14550 of the Public Resources Code is
38 amended to read:

39 14550. (a) (1) Every processor shall report to the department
40 for each month the amount of empty beverage containers, by

1 material type and weight of container or material, excluding
2 refillable beverage containers, received from recycling centers and
3 curbside programs for recycling, and the scrap value paid for glass,
4 PET, and bimetal containers and any beverage container that is
5 assessed a processing fee. Every processor shall also report to the
6 department for each month the amount of other postfilled
7 aluminum, glass, and plastic food and drink packaging materials
8 sold filled to consumers in this state and returned for recycling.
9 These reports shall be *electronically* submitted within 10 days after
10 each month, in the form and manner that the department may
11 prescribe.

12 (2) The department shall treat all information reported pursuant
13 to this section by a processor as commercial or financial
14 information subject to the procedures established pursuant to
15 Section 14554.

16 (b) Every distributor who sells or offers for sale in this state
17 beverages in aluminum beverage containers, nonaluminum metal
18 beverage containers, glass beverage containers, plastic beverage
19 containers, or other beverage containers, including refillable
20 beverage containers of these types, shall report to the department
21 for each month the number of beverages sold in these beverage
22 containers in this state ~~which~~ *that* are labeled pursuant to Section
23 14561, by material type and size and weight of container or any
24 other method as the department may prescribe. These reports shall
25 be submitted by the day when payment is due, consistent with the
26 applicable payment schedule specified in subdivision (a) of Section
27 14574, in the form and manner ~~which~~ *that* the department may
28 prescribe.

29 (c) Every distributor who sells or offers for sale in this state
30 beverages in refillable beverage containers and who pays a refund
31 value to distributors, dealers, or consumers who return these
32 containers for refilling, shall report to the department for each
33 month the number of these beverage containers returned empty to
34 be refilled, by material type and size of container or any other
35 method ~~which~~ *that* the department may prescribe. These reports
36 shall be submitted by the day when payment is due, consistent
37 with the schedule specified in subdivision (a) of Section 14574,
38 in the form and manner ~~which~~ *that* the department may prescribe.

39 (d) Notwithstanding subdivision (b), a distributor who elects to
40 make an annual payment pursuant to subdivision (b) of Section

1 14574 may, upon the approval of the department, submit the reports
2 required by this section annually to the department. The reports
3 shall accompany the annual payment submitted pursuant to Section
4 14574.

5 *SEC. 9. Section 14553 of the Public Resources Code is*
6 *amended to read:*

7 14553. (a) (1) All reports, claims, and other information
8 required pursuant to this division and submitted to the department
9 shall be complete, legible, and accurate, as determined by the
10 department by regulation, and shall be signed, by an officer,
11 director, managing employee, or owner of the certified recycling
12 center, processor, distributor, beverage manufacturer, container
13 manufacturer, or other entity.

14 (2) *The department shall make available a process for*
15 *electronically submitting all reports, claims, and other information*
16 *required pursuant to this division.*

17 (3) *All reports, claims, and other information required pursuant*
18 *to this division shall be electronically submitted to the department*
19 *pursuant to the process made available by the department.*

20 (b) The department may inspect the operations, processes, and
21 records of any entity required to submit a report to the department
22 pursuant to this division to determine the accuracy of the report
23 and compliance with the requirements of this division.

24 (c) A violation of this section is subject to the penalties specified
25 in Section 14591.1.

26 *SEC. 10. Section 14560 of the Public Resources Code is*
27 *amended to read:*

28 14560. (a) (1) Except as provided in ~~paragraph (3),~~
29 *subdivisions (b) and (c), a beverage distributor shall pay the*
30 *department, for deposit into the fund, a redemption payment of*
31 *four cents (\$0.04) for a beverage container with a capacity of less*
32 *than 24 fluid ounces sold or offered for sale in this state by the*
33 *distributor.*

34 (2) A beverage container with a capacity of 24 fluid ounces or
35 more shall be considered as two beverage containers for purposes
36 of redemption payments paid pursuant to paragraph (1).

37 (3) *Except as provided in subdivision (b), a beverage container*
38 *sold or offered for sale in this state has a refund value of four cents*
39 *(\$0.04) if the beverage container has a capacity of less than 24*

1 *fluid ounces and eight cents (\$0.08) if the beverage container has*
2 *a capacity of 24 fluid ounces or more.*

3 ~~(3) The amount of the redemption payment and refund value~~
4 ~~for a beverage container with a capacity of less than 24 fluid ounces~~
5 ~~sold or offered for sale in this state by a dealer shall equal five~~
6 ~~cents (\$0.05), and the amount of redemption payment and refund~~
7 ~~value for a beverage container with a capacity of 24 fluid ounces~~
8 ~~or more shall be ten cents (\$0.10);~~

9 *(b) (1) Except as provided in subdivision (c), if the aggregate*
10 *recycling rate reported pursuant to Section 14551 for all beverage*
11 *containers subject to this division is less than 75 percent for the*
12 *12-month reporting period from January 1, 2006, 1 to December*
13 *31, 2006, or 31 for any calendar year thereafter, year, a beverage*
14 *distributor shall pay the department, for deposit into the fund, a*
15 *redemption payment of five cents (\$0.05) for a beverage container*
16 *with a capacity of less than 24 fluid ounces sold or offered for sale*
17 *in this state by a dealer and ten cents (\$0.10) for a beverage*
18 *container with a capacity of 24 fluid ounces or more.*

19 ~~(b) Except as provided in paragraph (3) of subdivision (a),~~

20 *(2) If the aggregate recycling rate reported pursuant to Section*
21 *14551 for all beverage containers subject to this division is less*
22 *than 75 percent for the 12-month reporting period from January*
23 *1 to December 31 for any calendar year, a beverage container sold*
24 *or offered for sale in this state has a refund value of four five cents*
25 ~~(\$0.04)~~ *(\$0.05) if the beverage container has a capacity of less*
26 *than 24 fluid ounces and eight ten cents (\$0.08) (\$0.10) if the*
27 *beverage container has a capacity of 24 fluid ounces or more.*

28 *(c) (1) A distributor of voluntary beverage containers shall pay*
29 *the department, for deposit into the Voluntary Beverage Container*
30 *Fund, a redemption payment of five cents (\$0.05) for a voluntary*
31 *beverage container with a capacity of less than 24 fluid ounces*
32 *sold or offered for sale in this state by that distributor.*

33 *(2) A voluntary beverage container with a capacity of 24 fluid*
34 *ounces or more shall be considered as two beverage containers*
35 *for purposes of redemption payments paid pursuant to paragraph*
36 *(1).*

37 *(3) A voluntary beverage container sold or offered for sale in*
38 *this state has a refund value of five cents (\$0.05) if the voluntary*
39 *beverage container has a capacity of less than 24 fluid ounces and*

1 *ten cents (\$0.10) if the voluntary beverage container has a capacity*
2 *of 24 fluid ounces or more.*

3 ~~(e)~~

4 *(d)* This section does not apply to a refillable beverage container.

5 *SEC. 11. Section 14560.5 of the Public Resources Code is*
6 *amended to read:*

7 14560.5. (a) (1) Except as provided in paragraph (2), *and*
8 *subdivision (e)*, the invoice or other form of accounting of the
9 transaction submitted by a beverage distributor of beverages to a
10 dealer shall separately identify the amount of any redemption
11 payment imposed on beverage containers pursuant to Section
12 14560 and the separate identification of the invoice or other form
13 of accounting of the transaction shall not combine or include the
14 gross wholesale price with the redemption payment but shall
15 separately state the gross amount of the redemption payment for
16 each type of container included in each delivery.

17 (2) The invoice or other form of accounting of the transaction
18 submitted by any distributor of beer and malt beverages or wine
19 or distilled spirit coolers to a dealer may separately identify the
20 portion of the gross wholesale price attributable to any redemption
21 payment imposed on beverage containers pursuant to Section
22 14560 and the separate identification of the invoice or other form
23 of accounting of the transaction may separately state the gross
24 amount of the redemption payment for each type of container
25 included in each delivery. The invoice or other form of accounting
26 of this transaction may separately identify the portion of the gross
27 wholesale price attributable to the redemption payment.

28 (3) Notwithstanding Section 14541, the department shall
29 randomly inspect beverage distributor invoices or other forms of
30 accounting to ensure compliance with this subdivision. However,
31 an unintentional error in addition or subtraction on an invoice or
32 other form of accounting by a route driver of a distributor shall
33 not be deemed a violation of this subdivision.

34 (4) For the purposes of this subdivision, the term “type of
35 container” includes the amount of the redemption payment on
36 containers under 24 ounces and on containers 24 ounces or more.

37 (b) To the extent technically and economically feasible, a dealer
38 may separately identify the amount of any redemption payment
39 on the customer cash register receipt provided to the consumer,

1 by the dealer, that is applied to the purchase of a beverage
2 container.

3 (c) (1) ~~A~~ *Except as provided in paragraph (6), a dealer shall*
4 *separately identify the amount of any redemption payment imposed*
5 *on a beverage container in all advertising of beverage products*
6 *and on the shelf labels of the dealer's establishment. The separate*
7 *identification shall be accomplished by stating one of the following:*

8 (A) The price of the beverage product plus a descriptive term,
9 as described in paragraph (2).

10 (B) The price of the beverage product plus the amount of the
11 applicable redemption payment and a descriptive term, as described
12 in paragraph (2).

13 (C) The price of the beverage product plus the amount of the
14 applicable redemption payment, a descriptive term, as described
15 in paragraph (2), and the total of these two amounts.

16 (2) For purposes of paragraph (1), the redemption payment shall
17 be identified by one of the following descriptive terms: "California
18 Redemption Value," "CA Redemption Value," "CRV," "California
19 Cash Refund," "CA Cash Refund," or any other message specified
20 in Section 14561.

21 (3) A dealer shall not include the redemption payment in the
22 total price of a beverage container in any advertising or on the
23 shelf of the dealer's establishment.

24 (4) This subdivision applies only to a dealer at a dealer location
25 with a sales and storage area totaling more than 4,000 square feet.

26 (5) The penalties specified in Sections 14591 and 14591.1 shall
27 not be applied to a person who violates this subdivision.

28 (6) *This subdivision does not apply to a voluntary beverage*
29 *container.*

30 (d) With regard to the sale of beer and other malt beverages or
31 wine and distilled spirits cooler beverages, any amount of
32 redemption payment imposed by this division is subject to Section
33 25509 of the Business and Professions Code.

34 (e) (1) *The invoice or other form of accounting of the*
35 *transaction submitted by a beverage distributor of voluntary*
36 *beverages to a dealer may separately identify the amount of any*
37 *redemption payment imposed on the voluntary beverage container*
38 *pursuant to Section 14560 and the separate identification of the*
39 *invoice or other form of accounting of the transaction may*
40 *separately state the gross amount of the redemption payment for*

1 *each type of voluntary beverage container included in each*
2 *delivery.*

3 *(2) A dealer may separately identify the amount of any*
4 *redemption payment imposed on a voluntary beverage container*
5 *in all advertising of beverage products and on the shelf labels of*
6 *the dealer's establishment.*

7 *SEC. 12. Section 14571.2 of the Public Resources Code is*
8 *amended to read:*

9 14571.2. (a) The department shall continuously assist dealers
10 and recyclers to establish certified recycling locations within each
11 convenience zone. This assistance includes, but is not limited to,
12 providing information to companies and organizations interested
13 in operating recycling in the convenience zone; providing dealers
14 with names of prospective recyclers for the convenience zone and
15 providing recyclers with the names of dealers in need of a recycler
16 for a convenience zone; providing dealers and recyclers with
17 information on grants, advertising funds, and other resources
18 available; and providing recyclers with advice regarding appearance
19 and image of the recycling center and the efficient handling and
20 transportation of recycled beverage containers.

21 *(b) The department shall, when implementing this section,*
22 *provide assistance and incentives that will reduce the number of*
23 *unserved convenience zones to less than 5 percent of the total*
24 *amount of convenience zones in this state by January 1, 2015.*

25 *SEC. 13. Section 14571.5 of the Public Resources Code is*
26 *amended to read:*

27 14571.5. The department may, in a rural region, as identified
28 pursuant to subparagraph (A) of paragraph (2) of subdivision (b)
29 of Section 14571, upon petition by an interested person, do either
30 of the following:

31 ~~(a) *(1) Increase—The department may, in a rural region, as*~~
32 ~~*identified pursuant to subparagraph (A) of paragraph (2) of*~~
33 ~~*subdivision (b) of Section 14571, upon petition by an interested*~~
34 ~~*person, increase a convenience zone to include the area within a*~~
35 ~~*three-mile radius of a supermarket, if the expanded convenience*~~
36 ~~*zone would then be served by a single existing certified recycling*~~
37 ~~*center or location.*~~

38 ~~(2)~~

39 *(b) This subdivision applies only to a convenience zone that is*
40 *otherwise not being served by a certified recycling center or*

1 location meeting the requirements of Section 14571 or is exempted
2 by the department pursuant to Section 14571.8: 14571.

3 (b) (1) ~~Designate a convenience zone pursuant to Section~~
4 ~~14571.1 in an area where there is no supermarket, but with two or~~
5 ~~more dealers located within a one-mile radius of each other, and~~
6 ~~that meets all of the following criteria:~~

7 (A) ~~The dealers in that area have combined gross annual sales~~
8 ~~of two million dollars (\$2,000,000) or more, as certified by the~~
9 ~~petitioner in an affidavit filed with the petition.~~

10 (B) ~~The convenience zone encompasses a three-mile radius,~~
11 ~~with the center of the zone established at the dealer, located closest~~
12 ~~to the existing recycling center specified in subparagraph (D).~~

13 (C) ~~The convenience zone does not overlap any other existing~~
14 ~~convenience zone.~~

15 (D) ~~The convenience zone is served by a single existing certified~~
16 ~~recycling center.~~

17 (2) ~~The department shall identify the dealer locations only for~~
18 ~~the purpose of providing a reference point in the establishment of~~
19 ~~the convenience zone pursuant to this subdivision.~~

20 (3) ~~If the existing recycling location in a convenience zone~~
21 ~~designated pursuant to this subdivision ceases operations, the~~
22 ~~convenience zone shall also cease to exist until a new recycling~~
23 ~~location is established, and the department is petitioned by an~~
24 ~~interested person to designate a convenience zone.~~

25 *SEC. 14. Section 14571.6.5 is added to the Public Resources*
26 *Code, to read:*

27 *14571.6.5. (a) Notwithstanding Section 14571, the department*
28 *may allow the operator of a certified recycling center to be open*
29 *for business for less than 30 hours per week, but not less than 20*
30 *hours per week, if the certified recycling center is located in a*
31 *convenience zone that has been unserved for at least six continuous*
32 *months and the convenience zone is identified by the department*
33 *as an unserved convenience zone.*

34 *(b) A certified recycling center that is authorized by the*
35 *department pursuant to subdivision (a) shall be eligible to apply*
36 *for handling fees pursuant to Section 14585, and a processor shall*
37 *pay refund values, administrative costs, and processing payments*
38 *to the certified recycling center pursuant to subdivision (a) of*
39 *Section 14573.5 in the same manner as to a certified recycling*
40 *center operating in compliance with Section 14571.*

1 (c) *The department may authorize not more than 120 recycling*
2 *centers in unserved convenience zones pursuant to this section.*

3 SEC. 15. *Section 14571.8 of the Public Resources Code is*
4 *amended to read:*

5 14571.8. (a) (1) No lease entered into by a dealer after
6 January 1, 1987, may contain a leasehold restriction that prohibits
7 or results in the prohibition of the establishment of a recycling
8 location.

9 (2) *A person shall not enter into a lease with a supermarket on*
10 *or after January 1, 2014, that prohibits the operation of a certified*
11 *recycling center or inhibits the ability of that supermarket to*
12 *operate as, or contract with, a certified recycling center.*

13 (b) ~~The~~ *Except as provided in subdivision (h), the director may*
14 grant an exemption from the requirements of Section 14571 for
15 an individual convenience zone only after the department solicits
16 public testimony on whether or not to provide an exemption from
17 Section 14571. The solicitation process shall be designed by the
18 department to ensure that operators of recycling centers, dealers,
19 and members of the public in the jurisdiction affected by the
20 proposed exemption are aware of the proposed exemption. After
21 evaluation of the testimony and any field review conducted, the
22 department shall base a decision to exempt a convenience zone on
23 one, or any combination, of the following factors:

24 (1) The exemption will not significantly decrease the ability of
25 consumers to conveniently return beverage containers for the
26 refund value to a certified recycling center redeeming all material
27 types.

28 (2) Except as provided in paragraph (5), the nearest certified
29 recycling center is within a reasonable distance of the convenience
30 zone being considered from exemption.

31 (3) The convenience zone is in the area of a curbside recycling
32 program that meets the criteria specified in Section 14509.5.

33 (4) The requirements of Section 14571 cannot be met in a
34 particular convenience zone due to local zoning or the dealer's
35 leasehold restrictions for leases in effect on January 1, 1987, and
36 the local zoning or leasehold restrictions are not within the
37 authority of the department and the dealer. However, any lease
38 executed after January 1, 1987, shall meet the requirements
39 specified in subdivision (a).

1 (5) The convenience zone has redeemed less than 60,000
2 containers per month for the prior 12 months and, notwithstanding
3 paragraph (2), a certified recycling center is located within one
4 mile of the convenience zone that is the subject of the exemption.

5 (c) The department shall review each convenience zone in which
6 a certified recycling center was not located on January 1, 1996, to
7 determine the eligibility of the convenience zone under the
8 exemption criteria specified in subdivision (b).

9 (d) The total number of exemptions granted by the director
10 under this section shall not exceed 35 percent of the total number
11 of convenience zones identified pursuant to this section.

12 (e) The department may, on its own motion, or upon petition
13 by any interested person, revoke a convenience zone exemption
14 if either of the following occurs:

15 (1) The condition or conditions that caused the convenience
16 zone to be exempt no longer exists, and the department determines
17 that the criteria for an exemption specified in this section are not
18 presently applicable to the convenience zone.

19 (2) The department determines that the convenience zone
20 exemption was granted due to an administrative error.

21 (f) If an exemption is revoked and a recycling center is not
22 certified and operational in the convenience zone, the department
23 shall, within 10 days of the date of the decision to revoke, serve
24 all dealers in the convenience zone with the notice specified in
25 subdivision (a) of Section 14571.7.

26 (g) An exemption shall not be revoked when a recycling center
27 becomes certified and operational within an exempt convenience
28 zone unless either of the events specified in paragraphs (1) and (2)
29 of subdivision (e) occurs.

30 (h) *The director shall not grant an exemption pursuant to this*
31 *section if a certified recycling center will not be operating in a*
32 *convenience zone in which there is located a supermarket.*

33 *SEC. 16. Section 14573 of the Public Resources Code is*
34 *amended to read:*

35 14573. (a) The department shall pay to a processor, for every
36 empty beverage container received by the processor from a certified
37 recycling center, curbside program, or dropoff or collection
38 program, upon presentation of a completed processor invoice
39 accompanied by ~~a~~ *an electronic* shipping report from the supplier

1 of the material, in the form adopted by the department, the sum of
2 all of the following amounts:

3 (1) The refund value.

4 (2) Two and one-half percent of the refund value for
5 administrative costs.

6 (3) The processing payment established pursuant to Section
7 14575.

8 (b) The department shall make the payment required in
9 subdivision (a) within two working days of the date that the
10 department is notified of the delivery or within the time determined
11 by the department to be necessary and adequate. If the payment is
12 not made by the Controller to the certified processor within 20
13 working days of receipt of the claims schedule, the Controller shall
14 pay the processor interest at the current prime lending rate for any
15 period in excess of these 20 working days.

16 *SEC. 17. Section 14574 of the Public Resources Code is*
17 *amended to read:*

18 14574. (a) (1) A distributor of beverage containers shall pay
19 to the department *electronically* the redemption payment for every
20 beverage container, other than a refillable beverage container, sold
21 or transferred to a dealer, less 1.5 percent for the distributor's
22 administrative costs.

23 (2) The payment made by a distributor shall be made not later
24 than the last day of the month following the sale. The distributor
25 shall make the payment in the form and manner that the department
26 prescribes.

27 (b) (1) Notwithstanding subdivision (a), if a distributor displays
28 a pattern of operation in compliance with this division and the
29 regulations adopted pursuant to this division, to the satisfaction of
30 the department, the distributor may make a single annual payment
31 of redemption payments, if the distributor's projected redemption
32 payment for a calendar year totals less than seventy-five thousand
33 dollars (\$75,000).

34 (2) An annual redemption payment made pursuant to this
35 subdivision is due and payable on or before February 1 for every
36 beverage container sold or transferred by the distributor to a dealer
37 in the previous calendar year.

38 (3) A distributor shall notify the department of its intent to make
39 an annual redemption payment pursuant to this subdivision on or

1 before January 31 of the calendar year for which the payment will
2 be due.

3 ~~(e) This section shall become effective on July 1, 2012.~~

4 *SEC. 18. Section 14575 of the Public Resources Code is*
5 *amended to read:*

6 14575. (a) If any type of empty beverage container with a
7 refund value established pursuant to Section 14560 has a scrap
8 value less than the cost of recycling, the department shall, on
9 January 1, 2000, and on or before January 1 annually thereafter,
10 establish a processing fee and a processing payment for the
11 container by the type of the material of the container.

12 (b) The processing payment shall be at least equal to the
13 difference between the scrap value offered to a statistically
14 significant sample of recyclers by willing purchasers, and except
15 for the initial calculation made pursuant to subdivision (d), the
16 sum of both of the following:

17 (1) The actual cost for certified recycling centers, excluding
18 centers receiving a handling fee, of receiving, handling, storing,
19 transporting, and maintaining equipment for each container sold
20 for recycling or, only if the container is not recyclable, the actual
21 cost of disposal, calculated pursuant to subdivision (c). The
22 department shall determine the statewide weighted average cost
23 to recycle each beverage container type, which shall serve as the
24 actual recycling costs for purposes of paragraph (2) of subdivision
25 (c), by conducting a survey of the costs of a statistically significant
26 sample of certified recycling centers, excluding those recycling
27 centers receiving a handling fee, for receiving, handling, storing,
28 transporting, and maintaining equipment.

29 (2) A reasonable financial return for recycling centers.

30 (c) The department shall base the processing payment pursuant
31 to this section upon all of the following:

32 (1) Except as provided in paragraph (2), for calculating
33 processing payments that will be in effect on and after January 1,
34 2004, the department shall determine the actual costs for certified
35 recycling centers, every second year, pursuant to paragraph (1) of
36 subdivision (b). The department shall adjust the recycling costs
37 annually to reflect changes in the cost of living, as measured by
38 the Bureau of Labor Statistics of the United States Department of
39 Labor or a successor agency of the United States government.

(2) On and after January 1, 2010, the department shall use the most recently published, measured actual costs of recycling for a specific beverage material type if the department determines the number of beverage containers for that material type that is returned for recycling pursuant to Section 14551, based on the most recently published calendar year number of beverage containers returned for recycling, is less than 5 percent of the total number of beverage containers returned for recycling for all material types. The department shall determine the actual recycling cost to be used for calculating processing payments for those beverage containers in the following manner:

(A) The department shall adjust the costs of recycling that material type every second year by the percentage change in the most recently measured cost of recycling HDPE plastic beverage containers, as determined by the department. The department shall use the percentage change in costs of recycling HDPE plastic beverage containers for this purpose, even if HDPE plastic beverage containers are less than 5 percent of the total volume of returned beverage containers.

(B) The department shall adjust the recycling costs annually for that material type to reflect changes in the cost of living, as measured by the Bureau of Labor Statistics of the United States Department of Labor or a successor agency of the United States government.

(d) Except as specified in subdivision (e), the actual processing fee paid by a beverage manufacturer *or distributor of voluntary beverage containers* shall equal 65 percent of the processing payment calculated pursuant to subdivision (b).

~~(e) The~~ *Except as provided in subdivision (k),* the department, consistent with Section 14581 and subject to the availability of funds, shall reduce the processing fee paid by beverage manufacturers by expending funds in each material processing fee account, in the following manner:

(1) On January 1, 2005, and annually thereafter, the processing fee shall equal the following amounts:

(A) Ten percent of the processing payment for a container type with a recycling rate equal to or greater than 75 percent.

(B) Eleven percent of the processing payment for a container type with a recycling rate equal to or greater than 65 percent, but less than 75 percent.

1 (C) Twelve percent of the processing payment for a container
2 type with a recycling rate equal to or greater than 60 percent, but
3 less than 65 percent.

4 (D) Thirteen percent of the processing payment for a container
5 type with a recycling rate equal to or greater than 55 percent, but
6 less than 60 percent.

7 (E) Fourteen percent of the processing payment for a container
8 type with a recycling rate equal to or greater than 50 percent, but
9 less than 55 percent.

10 (F) Fifteen percent of the processing payment for a container
11 type with a recycling rate equal to or greater than 45 percent, but
12 less than 50 percent.

13 (G) Eighteen percent of the processing payment for a container
14 type with a recycling rate equal to or greater than 40 percent, but
15 less than 45 percent.

16 (H) Twenty percent of the processing payment for a container
17 type with a recycling rate equal to or greater than 30 percent, but
18 less than 40 percent.

19 (I) Sixty-five percent of the processing payment for a container
20 type with a recycling rate less than 30 percent.

21 (2) The department shall calculate the recycling rate for purposes
22 of paragraph (1) based on the 12-month period ending on June 30
23 that directly precedes the date of the January 1 processing fee
24 determination.

25 (f) Not more than once every three months, the department may
26 make an adjustment in the amount of the processing payment
27 established pursuant to this section notwithstanding any change
28 in the amount of the processing fee established pursuant to this
29 section, for any beverage container, if the department makes the
30 following determinations:

31 (1) The statewide scrap value paid by processors for the material
32 type for the most recent available 12-month period directly
33 preceding the quarter in which the processing payment is to be
34 adjusted is 5 percent more or 5 percent less than the average scrap
35 value used as the basis for the processing payment currently in
36 effect.

37 (2) Funds are available in the processing fee account for the
38 material type.

39 (3) Adjusting the processing payment is necessary to further
40 the objectives of this division.

(g) (1) Except as provided in paragraphs (2) (3), and ~~(3); (4)~~ , every beverage manufacturer shall pay to the department the applicable processing fee for each container sold or transferred to a distributor or dealer within 40 days of the sale in the form and in the manner which the department may prescribe.

(2) (A) Notwithstanding Section 14506, with respect to the payment of processing fees for beer and other malt beverages manufactured outside the state, the beverage manufacturer shall be deemed to be the person or entity named on the certificate of compliance issued pursuant to Section 23671 of the Business and Professions Code. If the department is unable to collect the processing fee from the person or entity named on the certificate of compliance, the department shall give written notice by certified mail, return receipt requested, to that person or entity. The notice shall state that the processing fee shall be remitted in full within 30 days of issuance of the notice or the person or entity shall not be permitted to offer that beverage brand for sale within the state. If the person or entity fails to remit the processing fee within 30 days of issuance of the notice, the department shall notify the Department of Alcoholic Beverage Control that the certificate holder has failed to comply, and the Department of Alcoholic Beverage Control shall prohibit the offering for sale of that beverage brand within the state.

(B) The department shall enter into a contract with the Department of Alcoholic Beverage Control, pursuant to Section 14536.5, concerning the implementation of this paragraph, which shall include a provision reimbursing the Department of Alcoholic Beverage Control for its costs incurred in implementing this paragraph.

(3) (A) Notwithstanding paragraph (1), if a beverage manufacturer displays a pattern of operation in compliance with this division and the regulations adopted pursuant to this division, to the satisfaction of the department, the beverage manufacturer may make a single annual payment of processing fees, if the beverage manufacturer meets either of the following conditions:

(i) If the redemption payment and refund value is not increased pursuant to paragraph (3) of subdivision (a) of Section 14560, the beverage manufacturer's projected processing fees for a calendar year total less than ten thousand dollars (\$10,000).

1 (ii) If the redemption payment and refund value is increased
2 pursuant to paragraph (3) of subdivision (a) of Section 14560, the
3 beverage manufacturer's projected processing fees for a calendar
4 year total less than fifteen thousand dollars (\$15,000).

5 (B) An annual processing fee payment made pursuant to this
6 paragraph is due and payable on or before February 1 for every
7 beverage container sold or transferred by the beverage
8 manufacturer to a distributor or dealer in the previous calendar
9 year.

10 (C) A beverage manufacturer shall notify the department of its
11 intent to make an annual processing fee payment pursuant to this
12 paragraph on or before January 31 of the calendar year for which
13 the payment will be due.

14 *(4) A distributor of voluntary beverage containers shall pay to*
15 *the department the applicable processing fee for each container*
16 *sold or transferred to a dealer within 40 days of the sale in the*
17 *form and in the manner that the department may prescribe.*

18 ~~(4)~~

19 (5) The department shall pay the processing payments on
20 redeemed containers to processors, in the same manner as it pays
21 refund values pursuant to Sections 14573 and 14573.5. The
22 processor shall pay the recycling center the entire processing
23 payment representing the actual costs and financial return incurred
24 by the recycling center, as specified in subdivision (b).

25 (h) When assessing processing fees pursuant to subdivision (a),
26 the department shall assess the processing fee on each container
27 sold, as provided in subdivisions (d) and (e), by the type of material
28 of the container, assuming that every container sold will be
29 redeemed for recycling, whether or not the container is actually
30 recycled.

31 ~~(i) The~~ (1) *Except as provided in paragraph (2), a container*
32 *manufacturer, or a designated agent, shall pay to, or credit, the*
33 *account of the beverage manufacturer in an amount equal to the*
34 *processing fee.*

35 *(2) This subdivision does not apply to a voluntary beverage*
36 *container.*

37 ~~If~~ *Except as provided in subdivision (k), if, at the end of any*
38 *calendar year for which glass recycling rates equal or exceed 45*
39 *percent and sufficient surplus funds remain in the glass processing*
40 *fee account established by the department pursuant to*

1 *subparagraph (A) of paragraph (5) of subdivision (a) of Section*
2 *14581 to make the reduction pursuant to this subdivision or if, at*
3 *the end of any calendar year for which PET recycling rates equal*
4 *or exceed 45 percent and sufficient surplus funds remain in the*
5 *PET processing fee account established by the department pursuant*
6 *to subparagraph (A) of paragraph (5) of subdivision (a) of Section*
7 *14581 make the reduction pursuant to this subdivision, the*
8 *department shall use these surplus funds in the respective*
9 *processing fee accounts in the following calendar year to reduce*
10 *the amount of the processing fee that would otherwise be due from*
11 *glass or PET beverage manufacturers pursuant to this subdivision.*

12 (1) The department shall reduce the glass or PET processing
13 fee amount pursuant to this subdivision in addition to any reduction
14 for which the glass or PET beverage container qualifies under
15 subdivision (e).

16 (2) The department shall determine the processing fee reduction
17 by dividing two million dollars (\$2,000,000) from each processing
18 fee account by an estimate of the number of containers sold or
19 transferred to a distributor during the previous calendar year, based
20 upon the latest available data.

21 (k) *The department shall reduce the processing fee for voluntary*
22 *beverage containers for the following calendar year if, at the end*
23 *of the calendar year, the department determines that the recycling*
24 *rates for voluntary beverage containers equal or exceed 45 percent*
25 *and there are surplus funds at the end of the previous calendar*
26 *year in the processing fee account established by the department*
27 *pursuant to subdivision (c) of Section 14580.5, for those containers.*

28 SEC. 19. Section 14580.5 is added to the Public Resources
29 Code, to read:

30 14580.5. (a) *Except as provided in subdivision (d), the*
31 *department shall deposit all amounts paid as redemption payments*
32 *by distributors for voluntary beverage containers pursuant to*
33 *subdivision (c) of Section 14560 into the Voluntary Beverage*
34 *Container Fund, which is hereby created in the State Treasury.*
35 *Notwithstanding Section 13340 of the Government Code, the money*
36 *in the Voluntary Beverage Container Fund is hereby continuously*
37 *appropriated to the department for expenditure without regard to*
38 *fiscal year for the following purposes:*

1 (1) *The payment of refund values and administrative fees to*
2 *processors for voluntary beverage containers pursuant to Section*
3 *14573.*

4 (2) *For a reserve for contingencies, which shall not be greater*
5 *than an amount equal to 5 percent of the total amount paid for*
6 *voluntary beverage containers to processors pursuant to Section*
7 *14573 during the preceding calendar year, plus the interest earned*
8 *on that amount.*

9 (b) *The money in the Voluntary Beverage Container Fund may*
10 *be expended by the department for the administration of this*
11 *division only upon appropriation by the Legislature.*

12 (c) *The department shall establish a separate processing fee*
13 *account in the Voluntary Beverage Container Fund for voluntary*
14 *beverage containers and all amounts paid as processing fees for*
15 *those voluntary beverage containers shall be deposited in that*
16 *account. Notwithstanding Section 13340 of the Government Code,*
17 *the moneys in that processing fee account are hereby continuously*
18 *appropriated to the department for expenditure without regard to*
19 *fiscal years, for purposes of making processing payments for*
20 *voluntary beverage containers pursuant to this division.*

21 (d) *The department shall, once every three months, set aside*
22 *funds estimated to be needed for expenditures authorized pursuant*
23 *to subdivisions (a) and (b). Notwithstanding Section 13340 of the*
24 *Government Code, those remaining funds are hereby continuously*
25 *appropriated to the department, without regard to fiscal year for*
26 *the following purposes:*

27 (1) *The payment of handling fees for voluntary beverage*
28 *containers, pursuant to Section 14585.*

29 (2) *Payments for the collection of voluntary beverage containers*
30 *by curbside programs and neighborhood dropoff programs*
31 *pursuant to Section 14549.6.*

32 SEC. 20. *Section 14581 of the Public Resources Code is*
33 *amended to read:*

34 14581. (a) *Subject to the availability of funds and in*
35 *accordance with subdivision (c), the department shall expend the*
36 *moneys set aside in the fund, pursuant to subdivision (c) of Section*
37 *14580, for the purposes of this section in the following manner:*

38 (1) *For each fiscal year, the department may expend the amount*
39 *necessary to make the required handling fee payment pursuant to*
40 *Section 14585.*

1 (2) Fifteen million dollars (\$15,000,000) shall be expended
2 annually for payments for curbside programs and neighborhood
3 dropoff programs pursuant to Section 14549.6.

4 (3) (A) ~~Fifteen~~*Twenty-one* million dollars~~—(\$15,000,000),~~
5 ~~(\$21,000,000)~~, plus the proportional share of the cost-of-living
6 adjustment, as provided in subdivision (b), shall be expended
7 annually in the form of grants for beverage container litter
8 reduction programs and recycling programs issued to either of the
9 following:

10 (i) Certified community conservation corps that were in
11 existence on September 30, 1999, or that are formed subsequent
12 to that date, that are designated by a city or a city and county to
13 perform litter abatement, recycling, and related activities, if the
14 city or the city and county has a population, as determined by the
15 most recent census, of more than 250,000 persons.

16 (ii) Community conservation corps that are designated by a
17 county to perform litter abatement, recycling, and related activities,
18 and are certified by the California Conservation Corps as having
19 operated for a minimum of two years and as meeting all other
20 criteria of Section 14507.5.

21 (B) The grants provided pursuant to this paragraph shall not
22 comprise more than 75 percent of the annual budget of a
23 community conservation corps.

24 (C) For the 2009–10 fiscal year only, the eight million two
25 hundred fifty thousand dollars (\$8,250,000) appropriated to the
26 California Conservation Corps for certified local conservation
27 corps by Item 3340-101-0133 of Sec. 2.00 of the 2009–10 Budget
28 Act, as added by Section 166 of Chapter 1 of the Fourth
29 Extraordinary Session of the Statutes of 2009, shall be in addition
30 to the amounts expended pursuant to this paragraph.

31 (4) (A) Ten million five hundred thousand dollars (\$10,500,000)
32 may be expended annually for payments of five thousand dollars
33 (\$5,000) to cities and ten thousand dollars (\$10,000) for payments
34 to counties for beverage container recycling and litter cleanup
35 activities, or the department may calculate the payments to counties
36 and cities on a per capita basis, and may pay whichever amount
37 is greater, for those activities.

38 (B) Eligible activities for the use of these funds may include,
39 but are not necessarily limited to, support for new or existing
40 curbside recycling programs, neighborhood dropoff recycling

1 programs, public education promoting beverage container
2 recycling, litter prevention, and cleanup, cooperative regional
3 efforts among two or more cities or counties, or both, or other
4 beverage container recycling programs.

5 (C) These funds shall not be used for activities unrelated to
6 beverage container recycling or litter reduction.

7 (D) To receive these funds, a city, county, or city and county
8 shall fill out and return a funding request form to the department.
9 The form shall specify the beverage container recycling or litter
10 reduction activities for which the funds will be used.

11 (E) The department shall annually prepare and distribute a
12 funding request form to each city, county, or city and county. The
13 form shall specify the amount of beverage container recycling and
14 litter cleanup funds for which the jurisdiction is eligible. The form
15 shall not exceed one double-sided page in length, and may be
16 submitted electronically. If a city, county, or city and county does
17 not return the funding request form within 90 days of receipt of
18 the form from the department, the city, county, or city and county
19 is not eligible to receive the funds for that funding cycle.

20 (F) For the purposes of this paragraph, per capita population
21 shall be based on the population of the incorporated area of a city
22 or city and county and the unincorporated area of a county. The
23 department may withhold payment to any city, county, or city and
24 county that has prohibited the siting of a supermarket site, caused
25 a supermarket site to close its business, or adopted a land use policy
26 that restricts or prohibits the siting of a supermarket site within its
27 jurisdiction.

28 ~~(5) (A) One million five hundred thousand dollars (\$1,500,000)~~
29 ~~may be expended annually in the form of grants for beverage~~
30 ~~container recycling and litter reduction programs.~~

31 ~~(B) Notwithstanding subdivision (f), the department shall not~~
32 ~~expend funds pursuant to this paragraph for the 2010 and 2011~~
33 ~~calendar years.~~

34 (6)
35 (5) (A) The department shall expend the amount necessary to
36 pay the processing payment established pursuant to Section 14575.
37 The department shall establish separate processing fee accounts
38 in the fund for each beverage container material type for which a
39 processing payment and processing fee are calculated pursuant to
40 Section 14575, or for which a processing payment is calculated

1 pursuant to Section 14575 and a voluntary artificial scrap value is
2 calculated pursuant to Section 14575.1, into which account shall
3 be deposited both of the following:

4 (i) All amounts paid as processing fees for each beverage
5 container material type pursuant to Section 14575.

6 (ii) Funds equal to the difference between the amount in clause
7 (i) and the amount of the processing payments established in
8 subdivision (b) of Section 14575, and adjusted pursuant to
9 paragraph (2) of subdivision (c) of, and subdivision (f) of, Section
10 14575, to reduce the processing fee to the level provided in
11 subdivision (e) of Section 14575, or to reflect the agreement by a
12 willing purchaser to pay a voluntary artificial scrap value pursuant
13 to Section 14575.1.

14 (B) Notwithstanding Section 13340 of the Government Code,
15 the moneys in each processing fee account are hereby continuously
16 appropriated to the department for expenditure without regard to
17 fiscal years, for purposes of making processing payments pursuant
18 to Section 14575.

19 (C) Notwithstanding the other provisions of this section and
20 Section 14575, for the 2010 and 2011 calendar years, the total
21 amount that the department may expend to reduce the amount of
22 processing fees for each container type shall not exceed the total
23 amount expended to reduce processing fees in the 2008 calendar
24 year.

25 ~~(7)~~

26 (6) (A) Up to five million dollars (\$5,000,000) may be annually
27 expended by the department for the purposes of undertaking a
28 statewide public education and information campaign aimed at
29 promoting increased recycling of beverage containers.

30 (B) Notwithstanding subdivision (f), the department shall not
31 expend funds pursuant to this paragraph for the 2010 and 2011
32 calendar years.

33 ~~(8)~~

34 (7) Up to ten million dollars (\$10,000,000) may be expended
35 annually by the department for quality incentive payments for
36 empty glass beverage containers pursuant to Section 14549.1.

37 ~~(9)~~

38 (8) (A) Up to ten million dollars (\$10,000,000) may be
39 expended annually by the department for market development

1 payments for empty plastic beverage containers pursuant to Section
2 14549.2, until January 1, 2017.

3 (B) ~~On and after January 1, 2012, in~~ *In* addition to the amount
4 specified in subparagraph (A), the department may expend the
5 amount calculated pursuant to subparagraph (C) for market
6 development payments for empty plastic beverage containers
7 pursuant to Section 14549.2.

8 (C) The department shall calculate the amount authorized for
9 expenditure pursuant to subparagraph (B) in the following manner:

10 (i) The department shall determine, on or before January 1,
11 2012, and annually thereafter, whether the amount of funds
12 estimated to be necessary pursuant to clause (ii) of subparagraph
13 (A) of paragraph-~~(6)~~ (5) for deposit to a processing fee account
14 established by the department for plastic beverage containers to
15 make processing payments for plastic beverage containers for the
16 current calendar year is less than the total amount of funds that
17 were estimated to be necessary the previous calendar year pursuant
18 to clause (ii) of subparagraph (A) of paragraph-~~(6)~~ (5) for deposit
19 to that processing fee account.

20 (ii) If the amount estimated to be necessary for the current
21 calendar year, as specified in clause (i), is less than the amount
22 estimated to be necessary for the previous calendar year, the
23 department shall calculate the amount of that difference.

24 (iii) The department shall expend an amount that is not greater
25 than 50 percent of the amount calculated pursuant to clause (ii)
26 for purposes of subparagraph (B).

27 (iv) If the department determines that the amount of funds
28 authorized for expenditure pursuant to this subparagraph is not
29 needed to make plastic market development payments pursuant to
30 subparagraph (B) in the calendar year for which that amount is
31 allocated, the department may expend those funds during the
32 following year.

33 (v) If the department determines that there are insufficient funds
34 to both make the market development payments pursuant to
35 subparagraph (B) and to deposit the amount required by clause (ii)
36 of subparagraph (A) of paragraph-~~(6)~~ (5), for purposes of making
37 the processing payments and reducing the processing fees pursuant
38 to Section 14575 for plastic beverage containers, the department
39 shall suspend the implementation of this subparagraph and
40 subparagraph (B).

(D) Subparagraphs (B) and (C) shall remain operative only until January 1, 2017.

(b) The fifteen million dollars (\$15,000,000) that is set aside pursuant to paragraph (3) of subdivision (a) is a base amount that the department shall adjust annually to reflect any increases or decreases in the cost of living, as measured by the Department of Labor, or a successor agency, of the federal government.

(c) (1) If the department determines, pursuant to a review made pursuant to Section 14556, that there may be inadequate funds to pay the payments required by this division, the department shall immediately notify the appropriate policy and fiscal committees of the Legislature regarding the inadequacy.

(2) On or before 180 days, but not less than 80 days, after the notice is sent pursuant to paragraph (1), the department may reduce or eliminate expenditures, or both, from the funds as necessary, according to the procedure set forth in subdivision (d).

(d) If the department determines that there are insufficient funds to make the payments specified pursuant to this section and Section 14575, the department shall reduce all payments proportionally.

(e) Prior to making an expenditure pursuant to paragraph (7) (6) of subdivision (a), the department shall convene an advisory committee consisting of representatives of the beverage industry, beverage container manufacturers, environmental organizations, the recycling industry, nonprofit organizations, and retailers to advise the department on the most cost-effective and efficient method of the expenditure of the funds for that education and information campaign.

(f) ~~Subject to the availability of funds, the~~ The department shall ~~retroactively pay in full not make any payments provided in this section that have been proportionally reduced during the period of January 1, 2010, through June 30, 2010. for voluntary beverage containers pursuant to this section.~~

SEC. 21. Section 14583 of the Public Resources Code is amended to read:

14583. (a) Notwithstanding Section 14581, on and after July 1, 2012, the department shall not make any payments, grants, or loans, as provided in that section, to a city, county, or city and county, if the city, county, or city and county has adopted or is enforcing a land use restriction that prevents the siting or operation

1 of a certified recycling center at a supermarket site, as defined in
2 Section 14526.6, as may be required pursuant to Section 14571.

3 *(b) A city or county that receives any revenue pursuant to the*
4 *Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5*
5 *(commencing with Section 7200) of Division 2 of the Revenue and*
6 *Taxation Code) from a transaction conducted by a supermarket*
7 *shall not prohibit the siting of a certified recycling center in the*
8 *parking lot of a supermarket.*

9 *SEC. 22. Section 14585 of the Public Resources Code is*
10 *amended to read:*

11 14585. (a) The department shall adopt guidelines and methods
12 for paying handling fees to supermarket sites, nonprofit
13 convenience zone recyclers, or rural region recyclers to provide
14 an incentive for the redemption of empty beverage containers in
15 convenience zones. The guidelines shall include, but not be limited
16 to, all of the following:

17 (1) Handling fees shall be paid ~~on a monthly basis~~, in the form
18 and manner adopted by the department. The department shall
19 require that claims for the handling fee be filed *electronically* with
20 ~~the department not later than the first day of the second month~~
21 ~~following the month for which the handling fee is claimed as a~~
22 ~~condition of receiving any handling fee.~~ *department.*

23 (2) ~~The Except as provided in paragraph (3), the~~ department
24 shall determine the number of eligible containers per site for which
25 a handling fee will be paid in the following manner:

26 (A) Each eligible site's combined monthly volume of glass and
27 plastic beverage containers shall be divided by the site's total
28 monthly volume of all empty beverage container types.

29 (B) If the quotient determined pursuant to subparagraph (A) is
30 equal to, or more than, 10 percent, the total monthly volume of
31 the site shall be the maximum volume which is eligible for a
32 handling fee for that month.

33 (C) If the quotient determined pursuant to subparagraph (A) is
34 less than 10 percent, the department shall divide the volume of
35 glass and plastic beverage containers by 10 percent. That quotient
36 shall be the maximum volume that is eligible for a handling fee
37 for that month.

38 (3) *The department shall determine the number of eligible*
39 *voluntary beverage containers per site for which a handling fee*
40 *will be paid in the following manner:*

1 (A) Each eligible site's combined monthly volume of voluntary
2 beverage containers shall be divided by the site's total monthly
3 volume of all empty voluntary beverage containers.

4 (B) If the quotient determined pursuant to subparagraph (A) is
5 equal to, or more than, 10 percent, the total monthly volume of
6 the site shall be the maximum volume that is eligible for a handling
7 fee for that month.

8 (C) If the quotient determined pursuant to subparagraph (A) is
9 less than 10 percent, the department shall divide the volume of
10 voluntary beverage containers by 10 percent. That quotient shall
11 be the maximum volume that is eligible for a handling fee for that
12 month.

13 ~~(3)~~

14 (4) (A) On and after the effective date of the act amending this
15 section during the 2011–12 Regular Session, September 25, 2012,
16 and until March 1, 2013, the department shall pay a handling fee
17 per eligible container in the amount determined pursuant to
18 subdivisions (f) and (g).

19 (B) On and after July 1, 2014, the department shall pay a
20 handling fee per eligible container in the amount determined
21 pursuant to subdivision (f).

22 ~~(4)~~

23 (5) If the eligible volume in any given month would result in
24 handling fee payments that exceed the allocation of funds for that
25 month, as provided in subdivision (b), sites with higher eligible
26 monthly volumes shall receive handling fees for their entire eligible
27 monthly volume before sites with lower eligible monthly volumes
28 receive any handling fees.

29 ~~(5)~~

30 (6) (A) If a dealer where a supermarket site, nonprofit
31 convenience zone recycler, or rural region recycler is located ceases
32 operation for remodeling or for a change of ownership, the operator
33 of that supermarket site nonprofit convenience zone recycler, or
34 rural region recycler shall be eligible to apply for handling fees
35 for that site for a period of three months following the date of the
36 closure of the dealer.

37 (B) Every supermarket site operator, nonprofit convenience
38 zone recycler, or rural region recycler shall promptly notify the
39 department of the closure of the dealer where the supermarket site,

1 nonprofit convenience zone recycler, or rural region recycler is
2 located.

3 (C) Notwithstanding subparagraph (A), any operator who fails
4 to provide notification to the department pursuant to subparagraph
5 (B) shall not be eligible to apply for handling fees.

6 *(b) (1) Except as provided in paragraph (2), the department*
7 *shall not carryover unexpended monthly allocations for the*
8 *payment of handling fees over to a subsequent fiscal year for the*
9 *purpose of paying handling fees but may carry over those*
10 *allocations for any other purpose pursuant to Section 14581.*

11 ~~(b)~~
12 ~~(2) The department may allocate the amount authorized for~~
13 ~~expenditure shall not carryover unexpended monthly allocations~~
14 ~~for the payment of handling fees pursuant to paragraph (1) of~~
15 ~~subdivision (a) of Section 14581 on for a monthly basis and may~~
16 ~~carry voluntary beverage container over any unexpended monthly~~
17 ~~allocation to a subsequent month or months. However, unexpended~~
18 ~~monthly allocations shall not be carried over to a subsequent fiscal~~
19 ~~year for the purpose of paying handling fees but may be carried~~
20 ~~over carryover those allocations for any other purpose pursuant~~
21 ~~to Section 14581. 14580.5.~~

22 (c) (1) The department shall not make handling fee payments
23 to more than one certified recycling center in a convenience zone.
24 If a dealer is located in more than one convenience zone, the
25 department shall offer a single handling fee payment to a
26 supermarket site located at that dealer. This handling fee payment
27 shall not be split between the affected zones. The department shall
28 stop making handling fee payments if another recycling center
29 certifies to operate within the convenience zone without receiving
30 payments pursuant to this section, if the department monitors the
31 performance of the other recycling center for 60 days and
32 determines that the recycling center is in compliance with this
33 division. Any recycling center that locates in a convenience zone,
34 thereby causing a preexisting recycling center to become ineligible
35 to receive handling fee payments, is ineligible to receive any
36 handling fee payments in that convenience zone.

37 (2) The department shall offer a single handling fee payment
38 to a rural region recycler located anywhere inside a convenience
39 zone, if that convenience zone is not served by another certified

1 recycling center and the rural region recycler does either of the
2 following:

3 (A) Operates a minimum of 30 hours per week in one
4 convenience zone.

5 (B) Serves two or more convenience zones, and meets all of the
6 following criteria:

7 (i) Is the only certified recycler within each convenience zone.

8 (ii) Is open and operating at least eight hours per week in each
9 convenience zone and is certified at each location.

10 (iii) Operates at least 30 hours per week in total for all
11 convenience zones served.

12 (d) The department may require the operator of a supermarket
13 site or rural region recycler receiving handling fees to maintain
14 records for each location where beverage containers are redeemed,
15 and may require the supermarket site or rural region recycler to
16 take any other action necessary for the department to determine
17 that the supermarket site or rural region recycler does not receive
18 an excessive handling fee.

19 (e) The department may determine and utilize a standard
20 container per pound rate, for each material type, for the purpose
21 of calculating volumes and making handling fee payments.

22 (f) (1) On or before January 1, 2008, and every two years
23 thereafter, the department shall conduct a survey pursuant to this
24 subdivision of a statistically significant sample of certified
25 recycling centers that receive handling fee payments to determine
26 the actual cost incurred for the redemption of empty beverage
27 containers by those certified recycling centers. The department
28 shall conduct these cost surveys in conjunction with the cost
29 surveys performed by the department pursuant to subdivision (b)
30 of Section 14575 to determine processing payments and processing
31 fees. The department shall include, in determining the actual costs,
32 only those allowable costs contained in the regulations adopted
33 pursuant to this division that are used by the department to conduct
34 cost surveys pursuant to subdivision (b) of Section 14575.

35 (2) Using the information obtained pursuant to paragraph (1),
36 the department shall then determine the statewide weighted average
37 cost incurred for the redemption of empty beverage containers,
38 per empty beverage container, at recycling centers that receive
39 handling fees.

(3) Except as provided in subdivision (g), the department shall determine the amount of the handling fee to be paid for each empty beverage container by subtracting the amount of the statewide weighted average cost per container to redeem empty beverage containers by recycling centers that do not receive handling fees from the amount of the statewide weighted average cost per container determined pursuant to paragraph (2).

(4) The department shall adjust the statewide average cost determined pursuant to paragraph (2) for each beverage container annually to reflect changes in the cost of living, as measured by the Bureau of Labor Statistics of the United States Department of Labor or a successor agency of the United States government.

(5) The cost information collected pursuant to this section at recycling centers that receive handling fees shall not be used in the calculation of the processing payments determined pursuant to Section 14575.

~~(g) (1) On and after the effective date of the act amending this section during the 2011–12 Regular Session, September 12, 2012,~~ and until March 1, 2013, the per-container handling fee shall not be less than the amount of the per-container handling fee that was in effect on July 1, 2011.

(2) The department may update the methodology and scrap values used for calculating the handling fee from the most recent cost survey if it finds that the handling fee resulting from the most recent cost survey does not accurately represent the actual cost incurred for the redemption of empty beverage containers by those certified recycling centers.

(h) This section shall become inoperative on July 1, 2014, and, as of January 1, 2015, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2015, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 23. Section 14585 is added to the Public Resources Code, to read:

14585. (a) The department shall adopt guidelines and methods for paying handling fees to supermarket sites, nonprofit convenience zone recyclers, and rural region recyclers to provide an incentive for the redemption of empty beverage containers in convenience zones. The guidelines shall include, but not be limited to, all of the following:

1 (1) *Handling fees shall be paid in the form and manner adopted*
2 *by the department. The department shall require that claims for*
3 *the handling fee be filed electronically as part of the shipping*
4 *report with the department.*

5 (2) (A) *If a dealer where a supermarket site, nonprofit*
6 *convenience zone recycler, or rural region recycler is located*
7 *ceases operation for remodeling or for a change of ownership, the*
8 *operator of that supermarket site, nonprofit convenience zone*
9 *recycler, or rural region recycler shall be eligible to apply for*
10 *handling fees for that site for a period of three months following*
11 *the date of the closure of the dealer.*

12 (B) *Every supermarket site operator, nonprofit convenience*
13 *zone recycler, or rural region recycler shall promptly notify the*
14 *department of the closure of the dealer where the supermarket*
15 *site, nonprofit convenience zone recycler, or rural region recycler*
16 *is located.*

17 (C) *Notwithstanding subparagraph (A), an operator who fails*
18 *to provide notification to the department pursuant to subparagraph*
19 *(B) shall not be eligible to apply for handling fees.*

20 (b) (1) *The department shall not make handling fee payments*
21 *to more than one certified recycling center in a convenience zone.*

22 (A) *If a dealer is located in more than one convenience zone,*
23 *the department shall offer a single handling fee payment to a*
24 *supermarket site located at that dealer. The department shall not*
25 *split the handling fee payment between the affected convenience*
26 *zones.*

27 (B) *The department shall stop making handling fee payments if*
28 *another recycling center is certified to operate within a*
29 *convenience zone and does not receive handling fees pursuant to*
30 *this section, and if the department monitors the performance of*
31 *the other certified recycling center for 60 days and determines*
32 *that the recycling center is in compliance with this division.*

33 (C) *A recycling center that locates in a convenience zone,*
34 *thereby causing a preexisting recycling center to become ineligible*
35 *to receive handling fee payments, is ineligible to receive any*
36 *handling fee payments in that convenience zone.*

37 (2) *The department shall pay a single handling fee to a rural*
38 *region recycler located anywhere inside a convenience zone, if*
39 *that convenience zone is not served by another certified recycling*
40 *center and the rural region recycler does either of the following:*

1 (A) Operates a minimum of 30 hours per week in one
2 convenience zone.

3 (B) Serves two or more convenience zones, and meets all of the
4 following criteria:

5 (i) Is the only certified recycler within each convenience zone.

6 (ii) Is open and operating at least eight hours per week in each
7 convenience zone and is certified at each location.

8 (iii) Operates at least 30 hours per week in total for all
9 convenience zones served.

10 (c) The department may require the operator of a supermarket
11 site or rural region recycler receiving handling fees to maintain
12 records for each location where beverage containers are redeemed,
13 and may require the supermarket site or rural region recycler to
14 take any other action necessary for the department to determine
15 that the supermarket site or rural region recycler does not receive
16 an excessive handling fee.

17 (d) The department may determine and utilize a standard
18 container per pound rate, for each material type, for the purpose
19 of calculating volumes and making handling fee payments.

20 (e) (1) For beverage containers returned for recycling on and
21 after July 1, 2014, the handling fee shall equal the following
22 amounts:

23 (A) The amount of one and two hundred nineteen thousandths
24 of one cent (\$0.001219) per beverage container for a recycling
25 site handling less than ____ beverage containers per month.

26 (B) The amount of five hundred eighty-one thousandths of one
27 cent (\$0.00581) per container for a recycling site handling more
28 than ____ beverage containers per month but less than ____
29 containers per month.

30 (C) The amount of five hundred twenty-two thousandths of one
31 cent (\$0.00522) per beverage container for a recycling site
32 handling more than ____ containers per month but less than
33 335,000 containers per month.

34 (2) For purposes of this subdivision, "recycling site" means a
35 single location of a supermarket site, nonprofit convenience zone
36 recycler, or rural region recycler.

37 (f) This section shall become operative on July 1, 2014.

38 SEC. 24. Division 12.5 (commencing with Section 17000) is
39 added to the Public Resources Code, to read:

1 *DIVISION 12.5. REGULATED BEVERAGE CONTAINERS*

2
3 *Article 1. Definitions*

4
5 *17000. For purposes of this division, the following definitions*
6 *shall apply:*

7 (a) “Dealer” means a retail establishment that sells, or offers
8 to sell, regulated beverages in regulated beverage containers to
9 consumers. A lodging, eating, or drinking establishment, or soft
10 drink vending machine operator who engages in the sale of
11 regulated beverages in regulated beverage containers to consumers
12 shall not be deemed a dealer for the purposes of this division.

13 (b) “Department” means the Department of Resources
14 Recycling and Recovery.

15 (c) “Distributor” means a person who engages in the sale of
16 regulated beverages in regulated beverage containers to a dealer
17 in this state, including any manufacturer who engages in these
18 sales. “Distributor” includes a person who imports beverages
19 from outside of this state for sale to dealers or consumers in this
20 state.

21 (d) “Recycle” or “recycled” means the reuse or refilling of
22 empty regulated beverage containers, or the process of sorting,
23 cleansing, treating, and reconstituting empty postfilled regulated
24 beverage containers for the purpose of using the altered form.
25 “Recycle” or “recycled” does not include merely sorting,
26 shredding, stripping, compressing, storing, landfilling with, or
27 disposing of an empty regulated beverage container.

28 (e) “Regulated beverage” means any of the following products:

29 (1) A beverage that otherwise meets the definition of beverage
30 for purposes of Section 14504 and is sold in a beverage container
31 that is not an aluminum beverage container, a glass beverage
32 container, a plastic beverage container, or a bimetal container.

33 (2) One hundred percent fruit juice in a container that is 46
34 ounces or more in volume.

35 (3) Vegetable juice in a container that is more than 16 ounces
36 in volume.

37 (f) “Regulated beverage container” means the individual,
38 separate bottle, can, jar, carton, or other receptacle, however
39 denominated, in which a regulated beverage is sold, and that is
40 constructed of metal, glass, or plastic, or other material, or a

1 combination of these materials. "Beverage container" does not
2 include cups or other similar open or loosely sealed receptacles.

3
4 Article 2. Mandatory Takeback and Recycling System
5

6 17001. (a) Except as provided in Article 3 (commencing with
7 Section 17004), on and after January 1, 2014, a distributor shall
8 submit a plan to the department for the implementation of a
9 takeback and recycling system incorporating all of the following
10 elements:

11 (1) A description of how the distributor will obtain a written
12 agreement with each dealer to whom the regulated beverage is
13 sold that provides that the dealer will take back empty regulated
14 containers either inside the store or at a recycling location in the
15 dealer's parking lot.

16 (2) A description of how the distributor will provide the
17 equipment for a recycling location that would be located in the
18 dealer's parking lot.

19 (3) Provisions to ensure that every empty regulated beverage
20 container sold or distributed by the distributor that is returned to
21 a dealer is recycled.

22 (4) Provisions to ensure that not less than 80 percent of the
23 regulated beverage containers sold by the distributor in this state
24 are recycled.

25 (5) Provisions to ensure the regulated beverage containers sold
26 by the distributor are made from materials that contain no less
27 than 35 percent postconsumer recycled content.

28 (b) The distributor shall implement the plan submitted to the
29 department and, on or before January 1, 2015, and annually
30 thereafter, demonstrate to the department, in a form and manner
31 specified by the department, both of the following:

32 (1) Not less than 80 percent of the containers of the regulated
33 beverages sold by the distributor in this state are recycled.

34 (2) The regulated beverage containers sold by the distributor
35 are made from materials containing no less than 35 percent
36 postconsumer recycled content.

37 17002. (a) The department may require a distributor to pay
38 the department an annual administrative fee. The department shall
39 set the fee at an amount that is adequate to cover the department's
40 full costs of administering and enforcing this article.

(b) The department shall deposit the fees collected pursuant to this section into the Regulated Beverage Account, which is hereby established in the State Treasury. The department may expend the moneys in Regulated Beverage Account, upon appropriation by the Legislature, to cover the department's costs to implement this article.

17003. The department may adopt regulations, including emergency regulations, to implement this article.

Article 3. Voluntary Beverage Containers

17004. (a) In lieu of submitting and implementing a takeback and recycling system pursuant to Article 2 (commencing with Section 17001), a distributor may elect to pay a redemption payment to the department pursuant to subdivision (c) of Section 14560 and otherwise comply with the requirements of Division 12.1 (commencing with Section 14500).

(b) A regulated beverage container for which a distributor elects to make the election specified in subdivision (a) is a voluntary beverage container for purposes of Section 14528.2.

SEC. 25. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

~~SECTION 1. Section 14515.5 of the Public Resources Code is amended to read:~~

~~14515.5. "PET container" means a plastic beverage container labeled with a "1" or with "PETE" for polyethylene terephthalate resin, pursuant to Section 18015 and subject to this division.~~